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August 7, 2008

DEPARTMENT OF ENERGY
OFFICE OF HEARINGS AND APPEALS

Hearing Officer's Decision

Name of Case: Personnel Security Hearing

Date of Filing: December 5, 2007

Case Number: TSO-0573

This Decision concerns the eligibility of xxxxxxxxxxxxxxxxxxxxxxxx (hereinafter referred to as "the individual") to hold an access authorization 1/ under the Department of Energy's (DOE) regulations set forth at 10 C.F.R. Part 710, Subpart A, entitled, "General Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material." As discussed below, after carefully considering the record before me in light of the relevant regulations, I have determined that the individual's access authorization should not be restored.

I. Background

The individual has held a DOE security clearance for a number of years. In February and April 2001, the individual was arrested and charged with Driving Under the Influence (DUI). He reported these arrests to DOE Security. The DUI charges were ultimately dropped, and the DUIs were mitigated in a 2004 personnel security interview (PSI). In April 2007, the individual tested positive during a random alcohol screen. This revelation prompted the Local Security Office (LSO) to conduct a PSI with the individual in May 2007. The LSO referred the individual to a DOE psychologist for a forensic psychological examination. The DOE psychologist examined the individual in July 2007, and memorialized his findings in a report (Psychological Report or Exhibit (Ex.) 11). In the Psychological Report, the DOE psychologist opined that the individual met the diagnostic criteria for Alcohol Abuse as set forth in the Diagnostic and Statistical Manual of Mental Disorders, 4th edition, Text Revised (DSM-IV-TR). Ex. 11 at 9. The DOE psychologist also opined that this mental condition is an illness which causes, or may cause, a significant defect in the individual's judgment or reliability. *Id.* at 10. At the time of the 2007 examination, the DOE psychologist did not believe that the individual was either rehabilitated or reformed from his Alcohol Abuse. *Id.* at 9.

In addition to the individual's DUIs and Alcohol Abuse diagnosis, the individual provided discrepant information to various individuals, including the DOE psychologist, regarding the April 2007

1/ Access authorization is defined as an administrative determination that an individual is eligible for access to classified matter or is eligible for access to, or control over, special nuclear material. 10 C.F.R. § 710.5(a).

random alcohol screen. He also provided discrepant information to various individuals regarding his typical alcohol consumption.

In October 2007, the LSO sent a letter (Notification Letter) advising the individual that it possessed reliable information that created a substantial doubt regarding his eligibility to hold an access authorization. In an attachment to the Notification Letter, the LSO explained that the derogatory information fell within the purview of three potentially disqualifying criteria set forth in the security regulations at 10 C.F.R. § 710.8, subsections (f), (h) and (j) (hereinafter referred to as Criteria F, H and J, respectively). 2/

Upon receipt of the Notification Letter, the individual filed a request for a hearing. The LSO transmitted the individual's hearing request to the Office of Hearings and Appeals (OHA), and the OHA Director appointed me as the Hearing Officer in this case. At the hearing that I convened, the DOE Counsel called one witness, the DOE psychologist. The individual called five witnesses, including a licensed clinical social worker/addiction counselor, his employer's staff psychologist, his Alcoholics Anonymous (AA) interim sponsor, his supervisor, and his sister. He also testified on his own behalf. The DOE and the individual submitted a number of written exhibits prior to and during the hearing.

II. Regulatory Standard

A. Individual's Burden

A DOE administrative review proceeding under Part 710 is not a criminal matter, where the government has the burden of proving the defendant guilty beyond a reasonable doubt. Rather, the standard in this proceeding places the burden on the individual because it is designed to protect national security interests. This is not an easy burden for the individual to sustain. The regulatory standard implies that there is a presumption against granting or restoring a security clearance. *See Department of Navy v. Egan*, 484 U.S. 518, 531 (1988) ("clearly consistent with the national interest" standard for granting security clearances indicates "that security determinations should err, if they must, on the side of denial"); *Dorfmont v. Brown*, 913 F.2d 1399, 1403 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991) (strong presumption against the issuance of a security clearance).

The individual must come forward at the hearing with evidence to convince the DOE that restoring his access authorization "will not endanger the common defense and security and will be clearly

2/ Criterion H relates to information that a person has "[a]n illness or mental condition of a nature which, in the opinion of a psychiatrist or licensed clinical psychologist, causes or may cause, a significant defect in judgment or reliability." 10 C.F.R. § 710.8(h). Criterion J relates to information that a person has "[b]een, or is, a user of alcohol habitually to excess, or has been diagnosed by a psychiatrist or a licensed clinical psychologist as alcohol dependent or as suffering from alcohol abuse." 10 C.F.R. § 710.8(j). Criterion F concerns information that the individual has "misrepresented, falsified, or omitted significant information from a Personnel Security Questionnaire or a Questionnaire for Sensitive Positions, Personnel Qualifications Statement, a Personnel Security Interview, written or oral statements made in response to an official inquiry on a matter that is relevant to a determination regarding eligibility for DOE access authorization. . . ." 10 C.F.R. § 710.8(f).

consistent with the national interest.” 10 C.F.R. § 710.27(d). The individual is afforded a full opportunity to present evidence supporting his eligibility for an access authorization. The Part 710 regulations are drafted so as to permit the introduction of a very broad range of evidence at personnel security hearings. Even appropriate hearsay evidence may be admitted. 10 C.F.R. § 710.26(h). Hence, an individual is afforded the utmost latitude in the presentation of evidence to mitigate the security concerns at issue.

B. Basis for the Hearing Officer’s Decision

In personnel security cases arising under Part 710, it is my role as the Hearing Officer to issue a Decision that reflects my comprehensive, common-sense judgment, made after consideration of all the relevant evidence, favorable and unfavorable, as to whether the granting or continuation of a person’s access authorization will not endanger the common defense and security and is clearly consistent with the national interest. 10 C.F.R. § 710.7(a). I am instructed by the regulations to resolve any doubt as to a person’s access authorization in favor of the national security. *Id.*

III. The Notification Letter and the Security Concerns at Issue

As stated above, the LSO cites three criteria as bases for suspending the individual’s security clearance, Criteria F, H and J. To support Criterion F, the LSO relies on information in its possession that the individual provided discrepant information regarding his alcohol consumption during a random alcohol screen where he tested positive for alcohol, as well as discrepant information regarding his typical alcohol consumption. To support Criterion H, the LSO relies on the DOE psychologist’s opinion that the individual suffers from Alcohol Abuse, a mental condition which causes, or may cause, a defect in the individual’s judgment or reliability. The LSO also relies on the DOE psychologist’s opinion to support Criterion J in this case, and the following information: (1) in February 2001 and in April 2001, the individual was arrested and charged with DUI; (2) two other medical professionals and a staff psychologist (in addition to the DOE psychiatrist) diagnosed the individual as suffering from Alcohol Abuse; and (3) during a random alcohol screen in April 2007, the individual tested positive for alcohol at .045 and .04.

I find that the information set forth above constitutes derogatory information that raises questions about the individual’s mental health under Criterion H and his alcohol use under Criterion J. The security concerns associated with Criteria H and J are as follows. First, a mental condition such as Alcohol Abuse can impair a person’s judgment, reliability and trustworthiness. *See* Guideline I of the *Revised Adjudicative Guidelines for Determining Eligibility for Access to Classified Information* issued on December 29, 2005, by the Assistant to the President for National Security Affairs, The White House. Second, the excessive consumption of alcohol itself is a security concern because that behavior can lead to the exercise of questionable judgment and the failure to control impulses, which in turn can raise questions about a person’s reliability and trustworthiness. *See id.* at Guideline G.

I find also that the information stated above constitutes derogatory information under Criterion F. False statements or misrepresentations by an individual in the course of an official inquiry regarding a determination of eligibility for DOE access authorization raise serious issues of honesty, reliability,

and trustworthiness. The DOE security program is based on trust, and when an access authorization holder breaches that trust, it is difficult to determine to what extent the individual can be trusted again in the future. *See, e.g., Personnel Security Hearing* (Case No. VSO-0281), 27 DOE ¶ 82,821 at 85,915 (1999). This security concern applies, however, only to misstatements that are “deliberate” and involve “significant” information. 10 C.F.R. § 710.8 (f) (Criterion F).

IV. Findings of Fact

The relevant facts in this case are uncontested. The individual started drinking alcohol when he was 17 years old. He began drinking heavily in his early 20s while in the Air Force, consuming about a six-pack of beer four times a week. The individual states that since that time he consumes a moderate amount of alcohol, about two to three drinks two times a week.

In 2001, the individual was arrested twice for DUI. On the first occasion in February 2001, according to the individual he was at home where he consumed two or three beers from ten o'clock in the morning to three o'clock in the afternoon. He stated that he went to his sister's house for several hours and did not consume any alcohol. However, after leaving his sister's home, he was pulled over by a police officer, given a field sobriety test, arrested and taken to a detention center. According to the individual, all charges were dropped. On the second occasion in April 2001, the individual stated that he was dining at a restaurant where he ate a steak and drank tea, but did not have an alcoholic beverage. Upon leaving the restaurant, the individual indicated that he swerved to the side of the road because the lights on his truck were not working. He was stopped by a police officer for swerving and asked to submit to a field sobriety test. After failing the field sobriety test, the individual was arrested and taken to jail. According to the individual, this DUI charge was dismissed as well.

On April 19, 2007, the individual underwent a random alcohol screen at work and tested positive for alcohol at .045 and .04. On the day of the alcohol screen, the individual reported that he had consumed just one beer at lunch. However, during an interview with a staff psychologist on April 27, 2007, he reported having two beers between the hours of 1 and 2 p.m. Shortly thereafter, the individual was administratively restricted from work requiring an access authorization and was later placed on medical restriction. During a PSI conducted on May 16, 2007, the individual reported that on April 27, 2007, he had drunk one light beer between the hours of 2 and 4 p.m. and adamantly denied drinking two drinks on that day. He also reported that his typical alcohol consumption included drinking one beer three times a week and sometimes three or four beers on some weekends. On July 2, 2007, the individual was referred for a forensic psychological evaluation. During the course of this evaluation, the individual denied drinking more than one drink on the day of the alcohol screen and stated that he did not know how to account for his positive results on the test. He also reported that his typical alcohol consumption included drinking two to three beers a day, although not everyday, averaging 12 to 16 beers a week. Based on his evaluation, the DOE psychologist concluded that the individual met the criteria for Alcohol Abuse. He further concluded that the individual has an illness which causes or may cause a significant defect in judgment and reliability.

V. Analysis

I have thoroughly considered the record in this proceeding, including the submissions tendered in this case and the testimony of the witnesses presented at the hearing. In resolving the question of the individual's eligibility for access authorization, I have been guided by the applicable factors prescribed in 10 C.F.R. § 710.7(c). ^{3/} After due deliberation, I have determined that the individual's access authorization should not be restored. I cannot find that restoring the individual's DOE security clearance will not endanger the common defense and security and is clearly consistent with the national interest. 10 C.F.R. § 710.27(a). The specific findings that I make in support of this decision are discussed below.

A. The Diagnosis of Alcohol Abuse - Criteria H and J

The individual did not dispute that he suffers from Alcohol Abuse under the criteria set forth in DSM-IV-TR. The pivotal question before me, therefore, is whether the individual has presented convincing evidence that he is adequately reformed or rehabilitated from his Alcohol Abuse.

B. Rehabilitation and Reformation from Alcohol Abuse

1. The Individual's Testimony

At the hearing, the individual testified that he was surprised by the positive results of his random alcohol screen. Transcript of hearing (Tr.) at 97. He testified that he now believes that he drank a lot more than what he admitted to drinking. *Id.* The individual admitted that at the time of the random alcohol screen, he could not remember how much alcohol he drank, but when asked about the amount of alcohol he purchased, he realized he "had been drinking way too much." *Id.* at 98. He further testified that his two DUIs, although ultimately dismissed, were possibly legitimate stops. *Id.* at 100.

The individual further testified that he stopped drinking around May 19, 2007, shortly after his random alcohol screen and shortly after meeting with his employer's staff psychologist. *Id.* at 101. According to the individual, he did not believe that he was drinking too much at that time, but remained sober nevertheless. The individual stated that he has not had the urge to drink since he stopped drinking, although alcohol is readily available on the dock where he currently lives in a boat. *Id.* at 110. He testified that he has been in treatment since August 2007 with an alcohol counselor and intends on continuing his treatment. *Id.* at 104. The individual also testified that he attends AA twice a week and has an interim AA sponsor. *Id.* at 107. He explained that his first sponsor had a

^{3/} Those factors include the following: the nature, extent, and seriousness of the conduct, the circumstances surrounding the conduct, to include knowledgeable participation, the frequency and recency of the conduct, the age and maturity at the time of the conduct, the voluntariness of his participation, the absence or presence of rehabilitation or reformation and other pertinent behavioral changes, the motivation for the conduct, the potential for pressure, coercion, exploitation, or duress, the likelihood of continuation or recurrence, and other relevant and material factors.

relapse and that he is working with another sponsor temporarily until he finds a permanent AA sponsor.

When questioned about the discrepant information he provided regarding his typical alcohol consumption and the amount of alcohol he drank before his random alcohol screen, the individual testified that he could not remember how many drinks he consumed on a typical day of the week. *Id.* at 122. The individual further testified, however, that he never intentionally misrepresented the amount of alcohol he consumed. *Id.* at 132. He admitted to minimizing the actual amount of alcohol he consumed and admitted to being in denial regarding his alcohol habits. *Id.* at 122.

Finally, during the hearing, the individual admitted to being an alcoholic and stated his intention to never drink again. *Id.* at 112. The individual reiterated that he had been in denial concerning the amount of alcohol he consumed and testified that he is aware now that he needs help with his alcohol problem. *Id.* at 114. He testified that he intends to continue his rehabilitation efforts.

2. The Sister's Testimony

The individual's sister, who possessed a security clearance for about 23 years until her retirement, testified that the individual grew up in a strict home environment where there was no alcohol in the home. *Tr.* at 21. She testified that the individual did not drink alcohol prior to serving in the Air Force. *Id.* The sister stated that she first became aware of the individual's drinking after hearing about his first DUI in 2001, although she has never seen him intoxicated. *Id.* She further testified that she has spoken to the individual recently about his drinking and believes that he has not consumed alcohol for the last six months. *Id.* at 22. She recounted a situation where she met the individual and his children at a local restaurant during Christmas and the individual ordered a tea instead of an alcoholic beverage. *Id.* at 23. She also testified that the individual attends AA and believes the individual now realizes he has a problem with alcohol and wants to do better. *Id.* at 23. The sister stated that the individual "recently had almost an epiphany where he just . . . it hit him like a ton of bricks. I did have a problem. And I want it corrected." *Id.* at 24. She testified that she has observed a noticeable difference in the individual since he began his rehabilitation efforts. *Id.* at 26. According to the sister, the individual looks different and is more self-confident. *Id.*

3. The AA Interim Sponsor's Testimony

The individual's interim AA sponsor testified that she has known the individual for about one year through work. She testified that she has been serving as the individual's interim sponsor for about two months since his original sponsor had a relapse. *Id.* at 35. She explained that AA frowns upon male-female sponsor relationships and plans to serve as the individual's sponsor only until he finds a suitable sponsor. *Id.* at 44. The AA sponsor testified that the individual is taking AA very seriously and is committed to learning the AA steps. *Id.* at 36. According to the AA sponsor, the individual has stated that he has no intention of consuming alcohol in the future. *Id.* The AA sponsor testified that the individual consistently attends AA meetings, about twice a week, and is currently working on Step Three of the program. *Id.* at 37-38. She opined that the individual realizes that he has a problem with alcohol and wants to make AA work for him.

4. The Testimony of the Individual's Supervisor

The individual's supervisor testified that he has known the individual for at least 17 years. Tr. at 10. The supervisor described the individual as good, reliable and dependable employee. *Id.* at 11-12. He testified that he has never seen the individual drink alcohol and was surprised that the individual had failed a random alcohol screen. *Id.* at 12. The supervisor further stated that on the day that the individual failed the alcohol screen, he saw no indication that the individual had been drinking. *Id.* at 17. He further stated that the individual later told him that he drank one or two beers at lunch prior to coming to work. *Id.* The supervisor explained that he has had issues with other employees who had alcohol problems, but he never noticed any signs that the individual was under the influence. *Id.* at 18. He testified that he has discussed the individual's alcohol problem with him as well as his treatment plan. *Id.* at 14. The supervisor noted that the individual appears to be "getting a lot out of [treatment]." *Id.*

5. The Licensed Clinical Social Worker's Testimony

The individual was referred to a licensed clinical social worker and addiction counselor (counselor) under the Employee Assistance Program (EAP) due to his positive alcohol screen. Tr. at 47. The counselor testified that she met with the individual for five sessions beginning in August 2007. *Id.* at 47. She recalled that the individual could not understand how he tested positive on the random alcohol screen and that he insisted that he had only consumed one beer on that day. *Id.* at 48. She further testified that during the course of her counseling with the individual, she recommended that the individual abstain from alcohol and attend AA. However, in retrospect, she stated that she wished she had referred the individual to an intensive outpatient program "because I think it would have been a speed-up for him to recognize the extent of his alcoholism and it may have moved him forward faster in his recovery but that is all in hindsight." *Id.* at 49. Nevertheless, the counselor testified that she began to see physical changes in the individual after he stopped drinking and he started AA. *Id.* at 51. Specifically, she testified that once a person stops drinking, "it is kind of the ultimate Breathalyzer to look at them and see their eyes brighten and see their [sic] affect change and see them becoming more open to the process." *Id.* at 51.

Although the counselor testified to the positive changes she observed in the individual, she stated that the individual is a "classic case of denial." *Id.* She opined that the individual had a hard time looking at how much he drank because of his strict religious background. *Id.* at 55. However, when the individual focused on how much alcohol he purchased, he could recall buying a 12-pack of beer on a daily basis. *Id.* She further opined that a "light switch flipped from off to on" for the individual and he came to realize he had an alcohol problem. *Id.* at 55-56.

The counselor opined that the individual is in the early phase of his recovery. *Id.* at 58. She noted that the individual has not done well with his AA sponsorship and testified that he needs to find a male sponsor as AA recommends. *Id.* at 60. She further noted, however, that the interim female sponsor has been instrumental in helping the individual learn more about recovery. *Id.* The counselor opined that the individual was a slow starter, but is now on a solid path of recovery. *Id.* at 63. She testified that the individual is "teachable" now, and added that she would like to see the

individual pursue his recovery from a more self-motivated perspective. *Id.* The counselor testified that she would like to see a solid year of sobriety and continuation in a structured support program in order to be considered rehabilitated. *Id.* at 64. If these criteria are met, she opined that the individual would have a less than 30 percent chance of relapse. *Id.* The counselor further testified that she would count the one year of sobriety from August 2007, when he started meeting with her, and not April 2007, the date of his last drink.

6. The Testimony of the Staff Psychologist

The staff psychologist testified that the individual was referred to her in April 2007, after producing a positive Breathalyzer test. She evaluated the individual and worked with him toward getting treatment and resolution of his alcohol problems. Tr. at 147. The staff psychologist stated that she has served more as a monitor than a treating doctor for the individual, meeting with the individual about once a month since April 2007. She concurred with the counselor in that the individual has been slow in making progress with his recovery. However, she stated that once he began his recovery plan with the counselor, he has done a good job. *Id.* at 148. According to the staff psychologist, “I think [the individual’s initial slow progress] is part of that denial and just an inability at first to wrap his mind around the idea that [alcohol] was a real problem for him.” *Id.* at 149. She opined that if the individual continues his recovery efforts, there is a 30 percent or less chance that he will relapse. *Id.* She further opined that although the individual’s denial is “dramatically and substantially diminished, . . . it is just very hard still for [the individual] to quite grip how seriously this has affected him in his life and that is part of denial.” *Id.* at 151. The staff psychologist noted further that the individual would benefit from more treatment and that he needs to find a male AA sponsor. Finally, she stated that the individual’s recovery began in August 2007, when he made the first step of meeting with the counselor. *Id.* at 155.

7. The DOE Psychologist’s Testimony and Report

The DOE psychologist stated in his Report that the individual could not be considered adequately rehabilitated until he had completed at least 12 months of monitored and sustained interventions. DOE Ex. 11 at 9. He stated that these interventions should include participation in AA with a sponsor at least twice a week for a year, total abstinence from alcohol, occasional monitoring by the staff psychologist, participation in professional alcohol treatment, and participation in random alcohol testing. *Id.* After listening to the testimony of all the witnesses in the case, the DOE psychologist concluded that, although the individual’s current state of denial is not as high as in the past, the individual still has some denial and lack of insight about his alcohol problem. Tr. at 160. The DOE psychologist further opined that the individual still suffers from alcohol abuse. However, based on the testimony he heard during the hearing, he stated that “there is reasonable likelihood that the diagnosis could be revised to alcohol dependence, given the magnitude of consumption that [the individual] reported over a period of time.” *Id.* at 162. The DOE psychologist noted that he is impressed by the individual’s “growing insight and recognition and commitment on his part,” but stated that it has only been a recent achievement that the individual “has realized the magnitude of alcohol being consumed on a regular basis.” *Id.* at 164. He also noted that the individual was a slow starter, beginning AA in October 2007, which was about four or five months after a staff

psychologist initially recommended AA to him. *Id.* The DOE psychologist further concluded that the one-year marker to be considered rehabilitated should begin from the August/September time frame, which was when the individual began working with the counselor. *Id.* at 165. He added that the start of the individual's recovery period should possibly begin as late as October 2007, when the individual began AA. *Id.* Finally, the DOE psychologist concluded that the individual has not yet demonstrated adequate evidence of rehabilitation or reformation.

8. Hearing Officer's Evaluation

In the administrative process, it is the Hearing Officer who has the responsibility for assessing whether an individual with alcohol problems has presented sufficient evidence of rehabilitation or reformation. *See* 10 C.F.R. § 710.27. Hearing Officers properly give deference to the expert opinions of psychiatrists and other mental health professionals regarding rehabilitation and reformation. *See Personnel Security Hearing* (Case No. TSO-0215), <http://oha.doe.gov/cases/security/tso0215.pdf>. *Personnel Security Hearing* (Case No. TSO-0466). <http://oha.doe.gov/cases/security/tso0466.pdf>.

Regarding rehabilitation and reformation, I gave considerable weight to the opinion of the DOE psychologist, who opined that the individual needed alcohol treatment, participation in AA and at least 12 months of sobriety in order to achieve rehabilitation and reformation. Moreover, from a common-sense perspective, the following factors militate against restoring the individual's access authorization. Although the individual has taken positive steps toward rehabilitation, including his participation in AA and his treatment with the counselor, it is clear that the individual is only in the early stages of recovery and is in need of further treatment to accomplish rehabilitation and reformation. As mentioned earlier, the individual was slow to begin a recovery plan and although the degree of his denial has lessened, there still exists some denial about his alcohol problem. Moreover, as of the date of the hearing, it has only been about six months since the individual began treatment. Finally, I agree with the opinion of the DOE psychologist that a minimum of one year of treatment, with maintenance of sobriety, is the minimum standard needed in this case in order to demonstrate adequate evidence of rehabilitation or reformation. The record clearly supports the DOE psychologist's judgment and conclusion. In fact, the individual's own expert witnesses share the DOE psychologist's opinion. Based on these reasons, I must find that the individual has not yet mitigated the security concerns associated with his use of alcohol.

C. Mitigation of Criterion F Concerns

As stated above, the LSO cited Criterion F as one of the bases for the security concerns in this case. The key issue under Criterion F is whether the individual has brought forward sufficient evidence to demonstrate that he can now be trusted to be consistently honest and truthful with the DOE. In considering this question, I found that the nature of the individual's misrepresentations was serious. The individual's lack of candor concerning his alcohol consumption could increase his vulnerability to coercion or blackmail and raises important security concerns. The DOE must rely on individuals who are granted access authorization to be honest and truthful; this important principle underlies the criterion set forth in 10 C.F.R. § 710.8(f).

During the hearing, the individual was questioned about the discrepant information he provided regarding his alcohol consumption. He admitted that he could not remember how many drinks he consumed on a typical day. Tr. at 122. He testified to the following:

I can't remember how many I drank on a certain day or a certain week. Like I said, I talked to my doctor and I have told him, I don't remember what it was, two or three beers or a beer a day or something. I have told [the DOE psychologist], as best I can remember, one or two or three beers a day three or four days a week. It was like, I don't know how you say it, like general questions like about how many. . . I don't remember.

Id.

The individual also admitted at the hearing to being in denial about his alcohol habits and thus minimizing the amount of alcohol he actually consumed. *Id.* However, he stated that he did not deliberately or intentionally misrepresent the amount of alcohol he consumed before his random alcohol screen or the typical amount of alcohol he consumed *Id.* at 132.

After considering the evidence before me, I find that the individual has mitigated the security concerns arising from the discrepant information regarding his alcohol consumption. During the course of the hearing, the individual credibly testified that he did not remember the exact amount of alcohol he consumed on a typical day, stating various amounts of consumption. It is clear from the record that the individual was in denial about his alcohol problem. As a consequence of his denial, the individual admitted that he minimized the actual amount of alcohol he drank. While I believe the individual should have been more clear when stating that he could not remember the exact amounts of alcohol he consumed on the day of his random alcohol screen as well as the amount of alcohol he consumed on a typical day, I do not believe the individual deliberately and intentionally sought to provide false information. The record also supports the fact that the individual was slow to begin a recovery plan and only recently has come to the realization of the actual amount of alcohol that he used to consume. I am also persuaded by the testimony of the individual's witnesses who consistently stated that the individual is an honest and reliable person. Based on the foregoing, I find that the individual has mitigated the security concerns raised by Criterion F.

VI. Conclusion

In the above analysis, I have found that there was sufficient derogatory information in the possession of the DOE that raises serious security concerns under Criteria F, H and J. After considering all the relevant information, favorable and unfavorable, in a comprehensive common-sense manner, including weighing all the testimony and other evidence presented at the hearing, I find that the individual has brought forth convincing evidence to mitigate the security concerns associated with Criterion F. However, I also find that the individual has not brought forth convincing evidence to mitigate the security concerns associated with Criteria H and J. I am therefore unable to find that restoring the individual's access authorization would not endanger the common defense and security and would be consistent with the national interest. Accordingly, I find that the individual's access

authorization should not be restored at this time. The individual may seek review of this Decision by an Appeal Panel under the regulations set forth at 10 C.F.R. § 710.28.

Kimberly Jenkins-Chapman
Hearing Officer
Office of Hearings and Appeals

Date: August 7, 2008